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EXAMINER

CHNG, JOY POH AI

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DAVID METZLER, RAND PIPP, BENJAMIN COTE,
MICHAEL CREMEAN, VICTOR TYRONE LAM, ANDREW PAXTON,
and CHRISTOPHER WILLIAMS

Appeal 2015-007770
Application 12/831,127
Technology Center 3600

Before BIBHU R. MOHANTY, MATTHEW S. MEYERS, and
ALYSSA A. FINAMORE, *Administrative Patent Judges*.

MOHANTY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Appellants seek our review under 35 U.S.C. § 134 of the final rejection of claims 1–23 which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF THE DECISION

We AFFIRM.

THE INVENTION

The Appellants' claimed invention is directed to clinical social networks and encouraging recovery using social networks (Spec., para. 2). Claims 1 and 15, reproduced below with the reference numerals added in bracketing, are representative of the subject matter on appeal.

1. A system for recovery based social networking, the system comprising:

[1] a computer system comprising:

[2] a logon module configured to authorize a user to access a recovery based social network, the recovery based social network having one or more online communities each for a condition of a user;

[3] a content module configured to present interactive content to the user in response to a condition of the user, receive non-private health input of the user from the user responsive to the interactive content, the input comprising user content having a plurality of items, store the input from the user; and

[4] a privacy module configured to restrict access to a first portion of the input to a first user selected group, the first portion comprising at least one of the plurality of items.

15. A computerized method for supporting recovery, the method comprising:

[1] establishing a communication link with a user device associated with a user;

[2] presenting, via the communication link, interactive content to the user device related to recovery;

[3] receiving, via the communication link, non-private health information of the user from the user device comprising the user's interaction with the interactive content;

[4] storing the non-private health information in a first database;

[5] storing private health information associated with the user in a second database;

[6] modifying the interactive content based, at least in part, on automatically analyzing the private health information in the second

database and the non-private health information from the first database, wherein modifying the interactive content does not expose private health information from the second database; and

[7] presenting, via the communication link, the modified interactive content to the user device.

THE REJECTIONS

The following rejections are before us for review:

1. Claims 1, 8, and 15 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.
2. Claims 1–23 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite.
3. Claims 1–4, 6, and 21 are rejected under 35 U.S.C. § 103(a) as unpatentable over Douglas et al. (US 6,039,688; Mar. 21, 2000), Pezaris et al. (US 2005/0198031 A1; Sept. 8, 2005), Wall (US 2010/0042690 A1; Feb. 18, 2010), and DailyStreth.com.
4. Claim 5 is rejected under 35 U.S.C. § 103(a) as unpatentable over Douglas, Pezaris, Wall, DailyStreth.com, and McGee et al. (US 2004/0249250 A1; Dec. 9, 2004).
5. Claim 7 is rejected under 35 U.S.C. § 103(a) as unpatentable over Douglas, Pezaris, Wall, DailyStreth.com, and Beck (US 2007/0240203 A1; Oct. 11, 2007).
6. Claims 8–11, 13, and 22 rejected under 35 U.S.C. § 103(a) as unpatentable over Douglas, Pezaris, and Wall.
7. Claim 12 is rejected under 35 U.S.C. § 103(a) as unpatentable over Douglas, Pezaris, Wall, and McGee.
8. Claim 14 is rejected under 35 U.S.C. § 103(a) as unpatentable over Douglas, Pezaris, Wall, and Beck.

9. Claims 15–17 are rejected under 35 U.S.C. § 103(a) as unpatentable over Bronkema (US 2004/0247748 A1; Dec. 9, 2004), and Zimmerman et al. (US 2006/0089857 A1; Apr. 27, 2006).

10. Claims 18–20 are rejected under 35 U.S.C. § 103(a) as unpatentable over Bronkema, Zimmerman, and Pezaris.

11. Claim 23 is rejected under 35 U.S.C. § 103(a) as unpatentable over Bronkema, Zimmerman, and Wall.

FINDINGS OF FACT

We have determined that the findings of fact in the Analysis section below are supported at least by a preponderance of the evidence¹.

ANALYSIS

Rejections under 35 U.S.C. § 101 and 35 U.S.C. § 112, second paragraph

The Appellants have provided no arguments in regards to the rejections which were made under 35 U.S.C. § 101 and 35 U.S.C. § 112, second paragraph, in either the Appeal Brief or Reply Brief. Accordingly, both of these rejections are summarily sustained.

¹ See *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Patent Office).

Rejections under 35 U.S.C. § 103(a)

The Appellants argue that the rejection of claim 1 is improper because the cited prior art fails to disclose elements of claim limitations [2], [3], and [4] as listed in the claim above (App. Br. 5, 6). The argued portions of these claim limitations require:

[2] a logon module configured to authorize a user to access a recovery based social network, the recovery based social network having one or more online communities each for a condition of a user;

[3] a content module configured to . . . receive non-private health input of the user from the user responsive to the interactive content, the input comprising user content having a plurality of items, [and]

[4] a privacy module configured to restrict access to a first portion of the input to a first user selected group, the first portion comprising at least one of the plurality of items.

(App. Br. 5, 6).

In contrast the Examiner has determined that the cited claim limitations are shown by the prior art (Ans. 4–11). For the argued portion of claim limitation [3] the Examiner cites to Douglas at portions including col. 2–22; 2:30–36, 2:48–52, 9:2–22, and 9:27–30; for the argued portion of claim limitation [4] the Examiner cites to Wall at portions including paragraphs 3, 4, 21, 24, 26, 32, and 33; for the argued portion of claim limitation [2] the Examiner cites to DailyStrength.com (Ans. 4–11).

We agree with the Examiner. We agree with and adopt the Examiner’s findings in regard to the above argued claim limitations being shown in the cited prior art as listed in the Answer at pages 4–11. For example, Douglas at column 9, lines 2–22 discloses keeping some input “private” such as journal entries. Wall, for example at paragraph 4,

discloses sending a message with privacy and control features.

DailyStrength.com discloses a “Sign In” (login module) as well as support communities for different health conditions. Accordingly, the rejection of claim 1 and its dependent claims which have not been specifically argued is sustained.

The Appellants also argue limitations in claim 8 that are similar to the limitations addressed above (App. Br. 7, 8), and we likewise agree with and adopt the Examiner’s finding in regard to those similar claim limitations. For these reasons, the rejection of claim 8 and its dependent claims which were not specifically argued is sustained.

With regard to claim 15 the Appellants argue that the rejection is improper because the cited prior art fails to disclose claim limitations [2], [3], [6], and [7] identified in the claim above which require:

- [2] presenting, via the communication link, interactive content to the user device related to recovery;

- [3] receiving, via the communication link, non-private health information of the user from the user device comprising the user’s interaction with the interactive content;

- [6] modifying the interactive content based, at least in part, on automatically analyzing the private health information in the second database and the non-private health information from the first database, wherein modifying the interactive content does not expose private health information from the second database; and

- [7] presenting, via the communication link, the modified interactive content to the user device.

(App. Br. 8–10).

In contrast, the Examiner has determined that the cited prior art discloses these argued claim limitations, and the Examiner cites to Bronkema at Figures 2B, 2D, 3, 8B, 8C, 9B, and paragraphs 9, 10, 15, 17–

20, 22, 87, 92–94, 97, 105, and 106; and Zimmerman at paragraphs 8, 27, 43, 51, 56, and 57 (Ans. 12–19, Final Rej. 12–15).

We agree with and adopt the Examiner's findings in this regard. Here the above citations to Bronkema and Zimmerman disclose the above argued claim limitations. For example, Bronkema in Figures 2A, 2B, 2D, and 8C as well as paragraph 22 disclose the user being presented with a communication link and receiving health information from a user. Figure 2B shows the user receiving modified content presented on the user device PDA. For this reason the rejection of claim 15 and its dependent claims which were not separately argued is sustained.

CONCLUSIONS OF LAW

We conclude that Appellants have not shown that the Examiner erred in rejecting the claims under 35 U.S.C. § 101 and 35 U.S.C. § 112, second paragraph, as listed in the Rejections section above.

We conclude that Appellants have not shown that the Examiner erred in rejecting claims 1–23 under 35 U.S.C. § 103(a), as listed in the Rejections section above.

DECISION

The Examiner's rejection of claims 1–23 is sustained.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED